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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/707,719

01/06/2004

Jeffrey Rozycki

1718

33692

7590

01/25/2006

JEFF DEWEESE

8 WINDING BROOK DRIVE

SARATOGA SPRINGS, NY 12866

EXAMINER

NGUYEN, TAM M

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6

Office Action Summary	Application No.		Applicant(s)	
	10/707,719		ROZYCKI ET AL.	
	Examiner		Art Unit	
	Tam Nguyen		3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 10-7-05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 2 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 recites the limitation "the surface" in line 2 and claim 11 recites the limitation "the standard hole pattern of a boot binding" in line 2. There is insufficient antecedent basis for these limitations in the claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-6 are rejected under 35 U.S.C. 102(a) as being anticipated by Graham (6,634,657).

2. As to claim 1, Graham discloses a device that can be connected to a snowboard, the device includes a connecting component (34), a rotational component (122) and a handle component (124) (see Figs. 1 and 2) wherein the handle is connected to a snowboard such that the handle can rotate vertically and horizontally (when said snow board is rotated vertically and horizontally), and the handle can be grasped by one skiing behind the snow board to apply force to the handle to control the direction, speed

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and edging of the snow board. Note, the prior art only needs to disclose a device that is capable of being grasped as claimed. That is, the prior does not need to disclose the intention of why the device is being grasped since that language merely speaks to the intended use of the device.

3. As to claim 2, Graham discloses a device as described above. Graham also disclose a means (flathead screws) of connecting the device to a surface of a snow board that uses a set of existing snowboard binding screw holes (See Col. 3, lines 22-29, in particular lines 24-25).

4. As to claim 3, Graham discloses a device as described above (see discussion of claim 1). Graham also discloses a means (pivot at 132) to provide rotation of a handle (124) both vertically and horizontally around one or more axes (see Fig. 2). Note, the transition of the handle from a horizontal position (ghost image) to the vertical position is a motion that includes both a vertical and a horizontal components (see Fig. 2).

5. As to claim 4, Graham discloses a device as described above (see discussion of claim 1). Graham also discloses a means (202) for detaching the handle (192) from the rotational component (156) and thus the snowboard (see Fig. 10).

6. As to claim 5, Graham discloses a snowboarding training device comprising a handle (124) and means (34) for attaching the handle to a rear portion of a snowboard such that the handle is disposed for grasping by an instructor (see Figs. 1 and 2).

7. As to claim 6, Graham discloses a device as described above (see discussion of claim 5). Graham further discloses that the attaching means comprise a base plate (34) that is affixable to the snowboard using a coupling means (flathead screws and existing

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holes in the snowboard) for a snowboard boot binding (See Col. 3, lines 22-29, in particular lines 24-25).

Claims 5 and 7 are rejected under 35 U.S.C. 102(a) as being anticipated by Anderson (1,535,391).

8. As to claims 5 and 7, Anderson discloses a device comprising a handle (35) and means (11,12 and "bolts or the like") for/capable of attaching the handle to a rearward portion of a snowboard such that the handle is disposed for grasping by an instructor wherein the attaching means comprises a swivel connector (17) being rotatable in a substantially horizontal plane.

Claim 10 is rejected under 35 U.S.C. 102(a) as being anticipated by Anderson (1,535,391).

9. As to claim 10, Anderson discloses a device comprising a base plate (11) being connectable to a snowboard, a swivel connector (17) affixed to the base plate, and a handle (37) engaging the swivel connector wherein the handle is configured to be grasped by an instructor (see Figs. 1 and 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (1,535,391).

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10. As to claim 8, Anderson discloses a device as described above (see discussion of claim 7). Anderson does not disclose that the handle is rotatably attached to the swivel connector such that the handle may pivot in a substantially vertical plane; however, Anderson's swivel connector does allow for the handle to be rotatable in both vertical and horizontal planes (see Figs. 1 and 4). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use any of an array of swivel configurations including that disclosed by Anderson or the instant invention, since both swiveling configurations are considered to be functionally equivalent in the exercise art to provide for the rotation of handles connected thereto in both vertical and horizontal planes.

11. As to claim 9, Anderson discloses a device as described above (see discussion of claim 7). Anderson also discloses that the handle is attached to the swivel connector via the shaft (48) that is disposed in a seat (47) of the swivel connector (see Fig. 6); however, Anderson does not disclose that the handle is removably attached to the swivel connector. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to make the handle removably attachable to the swivel connector (by making the shaft removably attachable to the seat) such that the overall device can be somewhat disassembled for compact storage or transport. The separation of elements, where removability is desirable, is a design consideration within the skill of the art. In re Duhlberg, 283 F.2d 522, 129 USPQ 348 (CCPA 1961).

12. As to claim 12, Anderson discloses a device as described above (see discussion of claim 10). Anderson further discloses that the swivel connector (17) is rotatable in a

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substantially horizontal plane, but Anderson does not disclose that the handle is rotatably attached to the swivel connector such that the handle may pivot in a substantially vertical plane; however, Anderson's swivel connector does allow for the handle to be rotatable in both vertical and horizontal planes (see Figs. 1 and 4). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use any of an array of swivel configurations including that disclosed by Anderson or the instant invention, since both swiveling configurations are considered to be functionally equivalent in the exercise art to provide for the rotation of handles connected thereto in both vertical and horizontal planes.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (1,535,391) in view of Bobrowicz (6,102,428).

13. As to claim 11, Anderson discloses a device as described above (see discussion of claim 10). Anderson also discloses that the base plate includes attachment holes (12) generally configured in a square pattern (see Fig. 3) wherein the holes may be used to affix the base plate to a snowboard such as that disclosed by Bobrowicz which includes binding holes in a square pattern (see Figs. 1,7 and 10-17, particularly Fig. 16).

Response to Arguments

14. Applicant's arguments with respect to claims 10-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Johnson '946 and March et al. '034 each disclose swivels having handles that can be attached to snowboards.

Schaller et al. '850, Drako '454, Schaller et al. '183 and Porte '741 are representative of the prior art that disclose snowboards having an array of different boot binding hole patterns.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Cronin can be reached on 571-2724536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 17, 2006



Stephen K. Cronin
Primary Examiner